UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

NORFOLK SOUTHERN RAILWAY COMPANY **Plaintiff,** **v.** **THE JUDGE ORGANIZATION, LLC, and JUDGE WAREHOUSING, LLC** **Defendants.**	**CASE NO**: 4:16-cv-00265-WTM-GRS

JOINT RULE 26(f) REPORT

1. **Date of Rule 26(f) Conference**: December 23, 2016

2. **Parties or counsel who participated in conference:**

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Attorneys for Plaintiff

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Attorney for Defendants

3. If any defendant has yet to be served, please identify the defendant and state when service is expected.

All named defendants have been served.

4. Date the Rule 26(a)(1) disclosures were made or will be made:

On or before January 6, 2017.

5. If any party objects to making the initial disclosures required by Rule 26(a)(1) or proposes changes to the timing or form of those disclosures,

None.

6. The Local Rules provide a 140-day period for discovery. If any party is requesting additional time for discovery,

(a) Identify the party or parties requesting additional time:

Norfolk Southern believes that 140-days should be sufficient for completing fact discovery such that fact discovery would be completed by April 20, 2017. Norfolk Southern believes that staged discovery is appropriate and that an additional three (3) months be allowed for completing expert discovery such that the close of all discovery would be July 20, 2017. The defendants do not object to this request.

(b) State the number of months the parties are requesting for discovery:

Norfolk Southern requests that three (3) additional months be allowed to accommodate staged expert discovery such that there will be approximately six (6) months of discovery in total. The defendants do not object to this request.

(c) Identify the reason(s) for requesting additional time for discovery:

Exceptionally complex factual issues, the possible need to add additional parties, and the need for discovery from third-parties and/or non-parties.

(d) Please provide a brief statement in support of each of the reasons identified above:

The facts probative of the Counterclaim filed by Judge Warehousing, LLC will require extensive fact discovery from numerous non-parties with knowledge of the facts and circumstances of the Counterclaim. Additionally, Norfolk Southern believes that after fact discovery has been conducted it may be necessary to conduct expert discovery regarding the Counterclaim and the propriety of Norfolk Southern's actions from a technical standpoint. While the initial 140-days should be sufficient for fact discovery, Norfolk Southern believes that the above-issues will require additional time for the completion of expert discovery such that all discovery will be completed by July 20, 2017.

7. If any party is requesting that discovery be limited to particular issues or conducted in phases, please

(a) Identify the party or parties requesting such limits:

Norfolk Southern believes that discovery should be broken down into fact and expert phases and that the expert phase should begin after the fact phase of discovery has been completed. The defendants do not object to this request.

(b) State the nature of any proposed limits:

Norfolk Southern proposes that fact discovery be completed by April 20, 2017 and then expert discovery should be completed by July 20, 2017.

8. The Local Rules provide, and the Court generally imposes, the following deadlines:

Last day for filing motions to add or join parties or amend pleadings	January 30, 2017 which is 60 days after issues were joined
Last day to furnish expert witness reports and disclosures by plaintiff	February 21, 2017 which is 60 days after Rule 26(f) conference
Last day to furnish expert witness reports and disclosures by defendant	March 23, 2017 which is 90 days after Rule 26(f) conference (or 60 days after the answer, whichever is later)
Last day to file motions	May 22, 2017 which is 30 days after close of discovery

If any party requests a modification of any of these deadlines,

(a) Identify the party or parties requesting the modification:

Norfolk Southern requests that the deadlines be modified.

(b) State which deadline should be modified and the reason supporting the request:

Norfolk Southern proposes that the deadlines be modified as follows:

Last day for filing motions to add or join parties or amend pleadings	February 28, 2017

Close of fact discovery:	April 20, 2017
Last day for a party to furnish expert witness reports and disclosures for an issue for which it has the burden of proof	May 19, 2017
Last day for a party to furnish expert witness reports and disclosures for an issue for which it does not have the burden of proof	June 20, 2017
Last day for depositions of experts	July 20, 2017
Last day to file motions	August 21, 2017

Norfolk Southern believes these modifications will allow the necessary time to conduct fact discovery, evaluate the nature of the pleadings and determine whether the proper parties have been included, and to conduct expert discovery. Norfolk Southern also believes that the expert disclosures should be based upon the party which carries the burden of proof regarding an issue rather than by the party. The defendants do not object to this request.

9. If the case involves electronic discovery,

(a) State whether the parties have reached an agreement regarding the preservation, disclosure, or discovery of electronically stored information, and if the parties prefer to have their agreement memorialized in the scheduling order, briefly describe the terms of their agreement:

The parties discussed discovery of electronically stored information. The parties do not anticipate a large number of documents to be exchanged during discovery in this case, and therefore documents may be served in pdf format or their native electronic format. Upon request, a party may request the production of a document in its native format.

(b) Identify any issues regarding electronically stored information as to which the parties have been unable to reach an agreement:

None at this time.

10. If the case is known to involve claims of privilege or protection of trial preparation material,

(a) State whether the parties have reached an agreement regarding the procedures for asserting claims of privilege or protection after production of either electronic or other discovery material:

At this initial stage of the proceedings the parties are not aware of any matters which would require invoking any particular claims of privilege or trial preparation materials. The parties have specifically agreed to comply with all privilege disclosure requirements appearing in the Federal Rules of Civil Procedure, and Rule 26(b)(5)(B) in particular, as well as all applicable requirements appearing in the Local Rules of this Court.

(b) Briefly describe the terms of any agreement the parties wish to have memorialized in the scheduling order (or attach any separate proposed order which the parties are requesting the Court to enter addressing such matters):

None.

(c) Identify any issues regarding claims of privilege or protection as to which the parties have been unable to reach an agreement:

None at this time.

11. State any other matters the Court should include in its Scheduling Order:

None at this time.

12. The parties certify by their signatures below that they have discussed the nature and basis of their claims and defenses and the possibilities for prompt settlement or resolution of the case. Please state any specific problems that have created a hindrance to the settlement of the case:

None at this time.

This 6th day of January, 2017.

s/ J. Curt Thomas
J. Curt Thomas
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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2017 a true and correct copy of the foregoing Joint Rule 26(f) Report was served via the court's electronic filing system upon counsel of record.

By: s/ J. Curt Thomas
J. Curt Thomas